



SOUTHWEST MARINE DEPARTMENT OF THE NAVY
SUPERVISOR OF SHIPBUILDING, CONVERSION AND REPAIR, USN
NAVAL STATION, BOX 119
SAN DIEGO, CALIFORNIA 92136-5119

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IN REPLY REFER TO:

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7 NOV 1986

From: Supervisor of Shipbuilding, Conversion and Repair, USN,
San Diego
To: Southwest Marine, Inc.
Subj: FLUID REMOVAL/DISPOSAL - USS FIFE (DD-991);
N00024-86-C-8513

Ref: (a) Inspection Deficiency Report 8513-1-2181 of 15 Oct 86
(b) Inspection Deficiency Report 8513-1-2182 of 15 Oct 86
(c) Inspection Deficiency Report 8513-1-2203 of 17 Oct 86
(d) Inspection Deficiency Report 8513-1-2239 of 21 Oct 86

1. Southwest Marine, Inc. has submitted four Inspection Deficiency Reports (IDRs) (references (a) - (d)) regarding the removal and/or disposal of fluids from USS FIFE during its regular overhaul (ROH) currently ongoing at the contractor's facility.

2. Specification work item no. 262-80-001 sets forth the requirements for the installation of the synthetic lube oil cooler sampling valves and thermometers. Specification work item no. 343-11-018 requires the disassembly, cleaning, testing and reassembly of the synthetic lube oil cooler. When USS FIFE arrived at SWM's facility, the equipment listed in these work items was in an operational status and contained synthetic oil. SWM was aware that the accomplishment of the requirements of these work items would necessarily involve the removal and disposal of such fluids. References (a) and (b) request the issuance of change orders to cover the removal and disposal of these fluids.

3. A longstanding course of dealing exists between SUPSHIP San Diego and the San Diego area MSR contractors regarding the removal and disposal of fluids when such removal and disposal are necessary to the performance of the work requirements of a contract. When specifications require work such as the removal of piping, valves, components or equipment which necessitates the removal of fluids, the MSR contractors and SUPSHIP San Diego have consistently understood that the requirement to remove and dispose of any and all fluids necessary to perform the work is implicit without being expressly called out in the specification.

4. In accordance with the course of dealing between the San Diego ship repair contractors and SUPSHIP San Diego regarding the removal and disposal of fluids, a change order will not be issued to cover the removal and disposal of fluids under work item nos. 262-80-001 and 343-11-018. It is the contractor's responsibility to remove and dispose of such fluids in accordance with state and federal regulations.

PRESIDENT	V. PRESIDENT	PROD. MGR.	PROD. SUPT.	CONTRACTS	ESTIMATING	PERSONNEL	ACCOUNTING	MATERIAL	ENG. & Gair	QA	FACILITIES	IRAM	CHUCK IV	FIFE PMS	Contr. Job File
✓	✓		✓						✓			✓	✓	✓	✓

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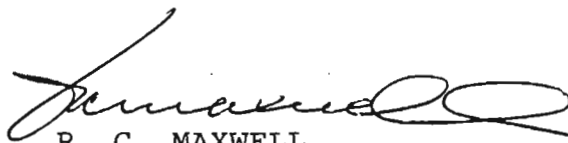
5. Specification work item no. 992-11-002 sets forth the requirements for the removal and replacement of contaminated sea water and the removal, storage and on-loading of lube oil in tanks on USS FIFE. Paragraph 3.1 requires the removal of 550,000 gallons of contaminated sea water from specified fuel oil tanks. Reference (c) requests a change order to compensate SWM for the disposal of the contaminated sea water.

6. In accordance with the customary business practice in the San Diego ship repair community, SWM is responsible for the removal as well as the disposition of the contaminated sea water removed from the fuel oil tanks of USS FIFE under work item no. 992-11-002. Accordingly, the disposal of subject sea water in accordance with state and local regulations is the contractor's responsibility. A change order will not be issued to cover the disposal of such fluids.

7. Specification work item no. 343-11-019 requires the contractor to disassemble, clean, test and reassemble the lube oil cooler. Reference (d) requests the issuance of a change order to cover SWM for the removal and disposal of fluids under work item no. 343-11-019. However, based upon the business practice set forth in paragraph 3, above, the removal and disposal of subject fluids in accordance with state and federal regulations is the contractor's responsibility. Therefore, a change order will not be issued to cover the removal and disposal of such fluids.

8. Reference (d) also requests that the government issue a change order to cover SWM for the replenishment of oil in the lube oil coolers upon completion of repairs. A change order is currently being prepared to cover the replenishment of oil following the repairs performed pursuant to work item no. 343-11-019.

9. In conclusion, references (a) - (d) involve the removal and/or disposal of fluids necessary to perform the requirements of the USS FIFE overhaul contract. A course of dealing exists between SUPSHIP San Diego and SWM, as well as the other MSR contractors, whereby there is an implicit requirement for the contractor to remove and dispose of any and all fluids necessary to perform required work pursuant to contract specifications. Accordingly, the Navy reaffirms its position that the removal and disposal of fluids necessary to perform the contract requirements is the contractor's responsibility.


R. C. MAXWELL
Administrative Contracting Officer
for USS FIFE (DD-991)